

REPRESENTATIVE FOR PETITIONER:

Matt Westhuis, Chief Financial Officer of Faith Properties

REPRESENTATIVES FOR RESPONDENT:

Chris Coakes, Appeals Coordinator; Eric Grossman, Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Faith Properties, Inc.)	Petition No.:	79-004-18-2-8-00586-18
)		
Petitioner,)		
)		
v.)	Parcel No.:	79-07-21-209-001.000-004
)		
Tippecanoe County Assessor,)	County:	Tippecanoe
)		
Respondent.)	Assessment Year:	2018

September 13, 2019

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Faith Properties, Inc. appealed the denial of its 2018 property tax exemption. Because Faith failed to show that the property was used for exempt purposes a majority of the time it was in use during the year leading up to the assessment date, we find for the Assessor and deny Faith’s appeal.

PROCEDURAL HISTORY

2. The Tippecanoe County Property Tax Assessment Board of Appeals issued a Form 120 determination denying Faith an exemption for 2018. On May 22, 2018, Faith timely filed a Form 132 petition with us.

3. On April 17, 2019, our designated administrative law judge, Jeremy Owens (“ALJ”), held a hearing on Faith’s petition. Neither he nor the Board inspected the property. The following people testified under oath: Matt Westhuis, Faith’s chief financial officer; Tippecanoe County Assessor Eric Grossman; and his appeals deputy, Chris Coakes.

4. The parties offered the following exhibits without objection:

Petitioner’s Exhibit 1:	IRS determination letter for Faith Baptist Church of Lafayette, Inc.
Petitioner’s Exhibit 2:	Page 1 of Faith Baptist Church’s Articles of Incorporation
Petitioner’s Exhibit 3:	2150 Elmwood Ave. Description of Use
Respondent’s Exhibit 1:	Assessor’s narrative
Respondent’s Exhibit 2:	Subject property record card
Respondent’s Exhibit 3:	Form 136 application
Respondent’s Exhibit 4:	Form 132 petition
Respondent’s Exhibit 5:	Subject property’s lease
Respondent’s Exhibit 6:	Indiana Code Chapter 10

5. The record also includes the following: (1) all petitions, motions, and other documents filed in this appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

FINDINGS OF FACT

6. Faith is a not-for-profit corporation. It is an asset holding company for Faith Baptist Church of Lafayette. The property under appeal contains a commercial building located at 2150 Elmwood Avenue in Lafayette. Someone bought the property at sheriff’s sale and donated it to Faith on December 27, 2017. An entrepreneur may have previously

used the building for office space, but it sat vacant for an unspecified period before Faith acquired it. *Westhuis, Coakes and Grossman testimony*.

7. Upon receiving the property, Faith planned to use it for what its chief financial officer broadly characterized as charitable purposes. But Faith had not yet settled on a specific use. The ministry was building a community center, and it was unclear who on the staff of Faith Church or its related entities would be moving into that building. One option Faith considered was using the property under appeal to house some of those staff members. Other options were operating a community food pantry or letting one of Faith's non-profit partners at the north end of downtown use the property to offer services to residents. Faith also began discussing what maintenance and repairs were needed to make the building usable. *Westhuis Testimony, Pet'r Ex. 1-3; Resp't Ex. 5*.

8. In May 2018, Faith leased the property to Trinity Horizon for \$1 per year. Article XII of the lease limits the purposes for which Trinity may use the property to those allowed by entities receiving an exemption from income taxation under the Internal Revenue Code. Trinity offers a transformational program to help men overcome drug addiction. It uses the property to operate a thrift store that funds approximately 25% of the program's costs. *Westhuis Testimony, Pet'r Ex. 1-3; Resp't Ex. 5*.

CONCLUSIONS OF LAW

9. The legislature has exercised its constitutional authority to exempt certain types of property from taxation. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). A taxpayer bears the burden of proving its property qualifies for an exemption. *Id.* Every exemption appeal "stand[s] on its own facts," and it is the taxpayer's duty to walk us through the analysis. *Jamestown Homes of Mishawaka, Inc. v. St. Joseph Cnty. Ass'r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009). Because exemptions relieve properties from bearing their share of the cost of government services, they are strictly construed against taxpayers and in favor of the State. *Indianapolis Osteopathic Hosp.*, 818 N.E.2d at 1014.

10. Faith claims an exemption under Indiana Code § 6-1.1-10-16. Subsection (a) of that statute provides an exemption for all or part of a building that is owned, and exclusively or predominantly used or occupied for educational, literary, scientific, religious, or charitable purposes. I.C. § 6-1.1-10-16(a); I.C. § 6-1.1-10- 36.3(c); *Jamestown Homes* 914 N.E.2d at 15. The exemption extends to land on which an exempt building is situated. It also extends to land on which a parking lot or other structure serving an exempt building is located. I.C. § 6-1.1-10-16(c)(1)-(2).
11. Property is predominantly occupied or used for exempt purposes if it is used for those purposes more than half the time it is used or occupied during the year ending on the assessment date. I.C. § 6-1.1-10-36.3(a). Where a property is used for both exempt and non-exempt purposes, a taxpayer claiming an exemption must compare the time of exempt and non-exempt use. *See Hamilton Cnty. Ass'r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017) (“[F]ailure to provide the Indiana Board with a comparison of the relative amounts of time that a property was used for exempt and non-exempt purposes is fatal to a claim of exemption under Indiana Code § 6-1.1-10- 36.3.”).
12. We have little information about the purposes, if any, for which the property was occupied or used in the year leading up to the January 1, 2018 assessment date. We know that the building was vacant for some unspecified period before Faith acquired it and that before its vacancy, an entrepreneur may have used the building for his office. Thus, even if we view Faith’s use of the property during the four days leading up to the assessment as exempt, Faith has failed to prove that its exempt use was the property’s predominant use.
13. In any case, Faith did not offer sufficient evidence to show that it used the property for exempt purposes. A taxpayer’s actions in preparing a building to be used for exempt purposes in the future may qualify the building for property tax exemption under Ind. Code § 6-1.1-10-16(a). *Trinity Episcopal Church v. State Bd. of Tax Comm’rs*, 694

N.E.2d 816, 818-19 (Ind. Tax Ct. 1998). In *Trinity Episcopal*, a church bought property that needed extensive renovations and entered into discussions with Midtown Mental Health Center, who wanted to use it as a community health center. *Id.* at 818. The church agreed to invest the money necessary to make the renovations after which Midtown would repay the church through a long-term lease. *Id.* The property was vacant on the assessment date because the church was in process of making the renovations. Midtown began occupying the property a few months later. *Id.* In reversing the State Board of Tax Commissioners' denial of exemption, the Tax Court explained that the taxpayer's intent to use the building to further exempt purposes was more than a mere dream; to the contrary, it had taken concrete steps at great expense to prepare the building for use as a mental health center. *Id.*

14. Unlike the church in *Trinity Episcopal*, Faith did little to show a concrete intent to use the subject property for exempt purposes. As of the assessment date, Faith was considering three options for the property. While we might assume that two of them—housing its administrative staff or operating a food pantry—would qualify as charitable, we cannot say the same for the third option. Even if we assume that Trinity's eventual operation of a thrift store at the property qualifies as charitable within the meaning of the exemption statute, there is nothing to show Faith contemplated that specific use as of the assessment date. And Faith offered no evidence about its other north end partners beyond the facts that they are not organized for profit and offer unspecified services to neighborhood residents.
15. This is a close case. Had Faith made a more detailed showing, we might reach a different conclusion. But on the evidence presented, we find that Faith failed to prove its property qualified for exemption. We express no opinion on the property's eligibility for any year other than 2018.

CONCLUSION

16. Faith failed to meet its burden of showing that its property qualified for an exemption. We therefore find that the property was 100% taxable.

We issue this Final Determination on the date written above

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>